


IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

LEROY A. TRUJILLO,)	C/A No. 0:07-494-SB-BM
)	
Petitioner,)	
)	
v.)	<u>ORDER</u>
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
)	

This matter is before the Court upon the Petitioner's pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Pursuant to 28 U.S.C. § 636(b) and the local rules of this district, this matter was referred to a United States Magistrate Judge for preliminary review.



On February 20, 2007, the Petitioner's § 2254 petition was transferred to this Court from the District of Utah. Then, on April 23, 2007, the Respondent filed a motion for summary judgment, following which the Court entered a Roseboro order, informing the Petitioner that a motion for summary judgment had been filed and explaining the summary judgment procedure. The order also informed the Petitioner that he had 34 days within which to file a response to the motion. Despite the Roseboro order, the Petitioner did not respond to the Respondent's motion. Therefore, on July 20, 2007, the Magistrate Judge issued another order instructing the Petitioner to advise the Court whether he wished to continue with this case and to file a response to the Respondent's motion for summary judgment within ten days from the date of the order. The order specifically instructed the Petitioner that if he failed to respond, his case would be recommended for dismissal with prejudice for failure to prosecute. Again receiving no response from the Petitioner, the

Magistrate Judge filed an R&R on August 8, 2007, recommending that the action be dismissed with prejudice for lack of prosecution. Attached to the R&R was a notice informing the Petitioner of his right to file written, specific objections to the R&R within ten days after being served with a copy of the report and informing the Petitioner of the consequences of failing to file objections. On August 15, 2007, the R&R was returned to the Court as undeliverable and marked "return to sender attempted - not known - unable to forward."

After a review of the record, it appears that the Petitioner does not wish to proceed with this action. Not only has he failed to respond to the Respondent's motion for summary judgment after twice being advised of the consequences of failing to do so, but also, he has failed to update his mailing address with the Court so that the Court may contact him regarding this case. In light of these circumstances, the Court agrees with the Magistrate Judge's recommendation that dismissal of this action for failure to prosecute is appropriate. See Davis v. Williams, 588 F.2d 69, 70 (4th Cir. 1978); Fed. R. Civ. P. 41(b).


Accordingly, based on the foregoing, it is

ORDERED that the R&R is adopted and this § 2254 petition is dismissed with prejudice for failure to prosecute.

IT IS SO ORDERED.



August 28, 2007
Charleston, South Carolina


The Honorable Sol Blatt, Jr.
Senior United States District Judge